

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF KLEIN) APPEAL NO. 07-A-2289
TRUST from the decision of the Board of) FINAL DECISION
Equalization of Bonner County for tax year 2007.) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing October 18, 2007, in Sandpoint, Idaho before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Jack Klein appeared. Assessor Jerry Clemons and Deputy Assessor Lorna Lee Hoogland appeared for Respondent Bonner County. This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP57N01W080172A.

The issue on appeal is the market value of residential property.

The decision of the Bonner County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$307,500, the improvements value is \$153,920, and other land value of \$7, for a total of \$461,427. Appellant requests the land value be reduced to \$121,009, the improvements value remain at \$153,920 and the other land value remain at \$7 for a total requested value of \$274,936. Only the land value is being appealed.

Subject property is a residential waterfront property located in the West Oden Bay area of Lake Pend Orielle. Subject consists of 60 feet of waterfront, with .629 acres above water and 1.38 acres under water.

Appellant originally purchased and developed 50 front feet. Appellant then acquired an additional 10 front feet, however, the County erred and did not assess the additional frontage in the 2007 assessment.

The Taxpayer stated subject is located 50 feet from two common areas which have boat docks, picnic sites and a boat ramp. It was further explained the common areas encroach upon subject and therefore reduced subject privacy.

The second area of contention is the sale properties the Assessor was comparing to subject were much superior with more front footage and amenities than subject. It was also noted subject has dirt road access, a shallow well and a septic system (instead of city sewer services).

The County maintained subject was part of the revaluation area for the 2007 tax year. The Respondent acknowledged the common areas do encroach on subject. It was further explained a negative 15% adjustment was given for the encroachment issue and the fact subject has less lake frontage. After applying the adjustment, subject's overall value was \$5,950 per front foot. There was a positive utility value for improvements to the land of \$10,000 and a \$7 value for the land under water.

The Assessor presented information on three sales to support the assessed value of subject. The sale prices ranged from \$7,000 to \$8,486 per front foot, for lots with 100 feet of waterfront. All of the sales were waterfront property. Location maps for the subject and sales were submitted by the County.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code Section 63-201(10) defines market value:

“Market Value” means the amount of United States dollars or equivalent for

which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The County applied negative adjustments to account for the impact of the common areas and for less front footage than a “standard” sized lot. Respondent’s evidence demonstrates subject’s assessment is based on current sales information. The Board finds the assessment does not exceed market value.

Idaho Code § 63-511(4) - Appeals from county board of equalization, provides:

In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. *A preponderance of the evidence shall suffice to sustain the burden of proof.*

Although Appellant argued the assessed value of subject was too high, no evidence was presented to support a reduction in value.

Appellant has not demonstrated by a preponderance of evidence that the relief claimed is warranted. Therefore, this Board will affirm the decision of the Bonner County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008